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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/725,533

12/03/2003

Jacob Fast

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EXAMINER

DAVIS, CASSANDRA HOPE

ART UNIT

PAPER NUMBER

3611

MAIL DATE

DELIVERY MODE

07/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/725,533

Applicant(s)

FAST ET AL.

Examiner

Cassandra Davis

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 4 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-10 and 12-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 5, 6, 7, 8-10, 12-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 4, 5, 6, 7, 8-10, 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gebka et al., U. S. Patent 5,394,632 in view of Ireland, U. S. Patent 6,226,910 and Harnois et al., U. S. Patent 5,419,066.

1. Gebka et al. teaches a price channel 10' adapted to be fitted into a C-channel 72 wherein the C-channel includes an upper lip 20 defining a downwardly opening upper pocket and a spaced lower lip 22 defining an upwardly opening lower pocket. The label holder 10' includes a labeling panel 12a" having upper edge portions 16' adapted to be engaged in the upper pocket of a C-channel, a lower edge portions, a front face adapted to support an information- containing label (not labeled), and a rear face. The labeling panel also has a rearwardly-extending mounting leg 14' having one end portion secured to the rear face of the labeling panel intermediate the

upper and lower edge portions of the labeling panel and a second end portion including a terminal tip adapted to be engaged in the lower pocket of the C-channel. See figure 3.

2. Gebka does not teach the mounting leg 14' including a resilient arcuate portion one end of which is secured to the rear face of the labeling panel wherein the arcuate portion of the mounting leg initially extending upwardly in a direction toward the upper edge portion of the labeling panel and rearwardly away from the rear face of the labeling panel and then extending arcuately downwardly and angled inwardly in a direction toward the rear face of the labeling panel with the tip thereof terminating in spaced relation to the rear face of said labeling panel. In addition, Gebka does not teach the distance between the upper edge portions of the labeling panel and the terminal tip is greater than the distance between the upper and lower pockets of the C-channel.

3. Ireland teaches a merchandising shelf bracket 10 adapted to be fitted into a C-channel 13, wherein the C-channel includes an upper lip 14 defining a downwardly open upper pocket and a spaced lower lip 15 defining an upwardly-open lower pocket. The label holder 10 includes a rear panel 18 having upper hook 20 adapted to be engaged in the upper

pocket of a C-channel, a lower hook 19. The lower hook 19 has one end portion secured to the rear face of the rear panel intermediate the upper and lower edge portions of the rear panel and a second end portion including a terminal tip adapted to be engaged in the lower pocket of the C-channel. The lower hook 19 has a resilient arcuate portion 21 which initially extends upward in a direction towards the upper end portion of the rear panel and rearwardly away from the rear face of the rear panel and then extends arcuately downward, at 22, and angled inwardly in a direction toward the rear face of the rear panel with the tip thereof terminating in space relation to the rear face of the rear panel to thereby provide adjustability to the effective length of the hook 19 to accommodate C-channels with different spacings between their upper and lower pockets. See column 2, lines 62-67 and column 3, lines 1-15. Ireland teaches the hook 19 is not only flexible to adapt to different shelves, but also is configured to assure the bracket 10 will universally fit onto most shelves.

4. Harnois et al teaches a card holder adapted to be inserted into a C-shaped channel "CH". The holder has a back labeling panel 11 having an upper edge portion 17 and a lower edge portion 19. Harnois also teaches an upper rearward extending mounting leg 51 with terminal end 55 and a

lower rearward extending mounting leg 53 with a terminal end 57. Harnois

recites:

Advantageously, aforesaid first and second members 51,53 project from the rear 15 of the flat body 11, the lip 55 may consist of a layer 59 of co-extruded material having higher elastic properties than the plastic used for the card holder extrusion. An example of such a plastic material with higher elastic properties may be rubber. Such a layer 59 may contribute to further increase the quality of the mounting between members "PM".

5. It is inherent that the distance between the upper edge 17 and/or the upper mounting 51 and the lower mounting leg 53 is greater than the distance between the upper and lower pockets 21/23 of the C-channel/card holder "CH".

It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the rearwardly extending leg of the price channel taught by Gebka made of a resilient material angled inwardly towards the rear face as taught by Ireland to provide a means to lock into the bottom edge of the C-shaped channel card holder. In addition, it would have been obvious to one having ordinary skill in the art at the time this invention was made construct the upper edge of the holder and a lower terminal tip of the mounting leg/hook greater than the distance between the

upper and lower pockets of the C-channel card holder as taught by Harnois to provide an additional means to secure the card holder within the channel.

With respect to claim 8-10, since the applicant does not disclose that a Lozier, Madix, or Streater shelf solves any state problem or is for any particular purpose, it appears that attaching the device to any suitable conventional shelf would perform equally well.

With respect to claims 12 and 13, Gebka teaches the transparent front sheet 24 secured within 12b.

Response to Arguments

6. Applicant's arguments filed April 11, 2007 have been fully considered but they are not persuasive.

7. The applicant argues Gebka does not teach the structure to enable the tip movement as now claimed. The applicant further argues the combination of Gebka, Ireland, and Harnois would not result in the present invention. Specifically the applicant states "there is nothing in Ireland to suggest that a tensile or elongated force aligned or parallel with the back wall would exist. There is nothing to suggest that the hooks flex longitudinally, *i.e.*, in upward and downward directions such that a force vector is substantially parallel with the back panel. In addition, the applicant

argues Harnois teaches the lips 55 and 57 that extend from the rear of the body 11 do not flex or bend and Harnois does not suggest that there is any flexure of the first and second members.

8. The examiner disagrees with the applicant arguments.

9. Gebka, the primary reference, is cited to show the general configuration of the claimed invention. Gebka shows a label holder including a labeling panel having an upper edge adapted to engage the upper pocket of a c-shaped channel, a front and rear face, and a rearwardly extending mounting leg. The mounting leg having one end attached to the rear face of the labeling panel and a distal tip adapted to engage the lower pocket of the c-shaped channel. The mounting leg of Gebka does not have the configuration of the claimed mounting leg.

10. Ireland teaches a label holder having a rear mounting leg 19 having a resilient arcuate portion one end of which is secured to the rear face of the labeling panel and the other end terminates into a distal tip. Ireland teaches the mounting leg 19 is flexible to be adapted to different shelves. Ireland states "as bracket 10 is pressed against shelf channel 13, hooks 19 and 20 will flex sufficiently to allow projections 22 and 24 to flex and become fully engaged by hooks 15 and 14, respectively. As such, projections 22 and 24

spring back to contact channel edge 13 thereby locking bracket 10 in place.” Since the hooks 19 and 20 of the bracket are pressed against the front surface of the hooks 14 and 15 of the channel, it is inherent that the hooks 19 and 20 have to move in a direction parallel with the rear surface of the labeling panel as they pass over the edge of the hooks 14 and 15 to enter into the space between the hooks 14 and 15 and the back wall of the channels 13. Specifically, the examiner contends as the hooks 19 and 20 are pressed against the front surface of hooks 14 and 14, the hook 20 moves downwardly toward the hook 19 and the hook 19 moves upwardly toward the hook 20.

11. With respect Harnois, the applicant argues Harnois does not teach any flexure of the first and second member. The examiner contend Harnois is cited to show the hooks or first and second member having a distance therebetween greater than the distance between the upper and lower pockets of the channel.

12. The rejection is maintained.

Conclusion


13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Cassandra Davis
Primary Examiner
Art Unit 3611

CD
July 7, 2007